

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING FEBRUARY 2021. (This publication can be viewed in its entirety on the state court website at: www.courts.state.co.us).

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during February 2021, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved, and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 2021CW2; Previous Case No. 16CW3104 – WILBUR C. MILLER FAMILY LLLP, PO Box 1576, Westcliffe, CO 81252, (719) 371-0725 and 2 R LAND HOLDINGS, LLC, 2795 County Road 129, Westcliffe, CO 81252, (719) 783-2345

Application to Make Absolute in Whole or in Part

CUSTER COUNTY

2. Name of Structure: The Charles Jarvis Ditch Expansion (WDID 1300783) Type: Ditch.

3. Describe conditional water right: A. Date of Original Decree: July 13, 2017 **Case No:** 16CW3104 **Court:** District Water Court, Division 2. **B. List all subsequent decrees:** N/A **C.**

Legal description: SW 1/4 of the SE ¼ of Section 2, Township 23 South, Range 73 West of the 6th PM, at a point 150 feet from the South section line and 1400 feet from the East Section line. **D. Source of water:** Dry Creek. **E. Appropriation Date:** December 31, 2016. **Amount:** 6.63 cfs **F. Use:** Irrigation and livestock watering. **G. Depth:** N/A **4. Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed:**

The applicants have installed a trash pre-cleaning structure, a diversion structure, a measuring device, and a pipeline inlet structure with subsequent pipeline sized to accommodate Aldrich #1 (1.26 CFS), Charles Jarvis (4.11 CFS) and Charles Jarvis Expansion when available to the land owned by Wilbur C Miller LLLP. The pipeline has been fitted with valves and turnouts to allow use of the Charles Jarvis Expansion on the land shown on **Exhibit A** attached to the application a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **5. Claim to make absolute in whole or in part. A. Date water applied to beneficial use:** June 6, 2019 **Amount:** 2.63 cfs **Use:** Irrigation, see attached diversion records, exhibits B and C. **B. The application shall include supporting evidence that applicant diverted water in-priority and applied such water to the beneficial uses claimed in the amounts claimed:** See attached, exhibits B and C. **C. Description of place of use where water is applied to beneficial use:** See attached map, Exhibit A. **6. If actual location of the structure is different from the location in paragraph 3.C. above, provide actual description:** N/A. **7. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing**

storage pool: N/A **8. Remarks:** The applicants are not attempting to claim new use but rather to document and formalize the current practice which has been taking place for at least the last 50 years. Dry Creek occasionally delivers initial high-volume flow that occurs for a few days when there is more than adequate snow melt conditions. The stream channel below the current point of diversion becomes indeterminate resulting in total loss of any existing flow. Recent history shows a very typical pattern for this stream; 2018, the stream did not run, 2019, diversion records supplied, 2020, streamflow satisfied Aldrich #1 and part of the Charles Jarvis for a little over a week. Dry Creek has never been a high-yielding stream, in fact it is prone to failure approximately 2 out of every 10 years. At one time there was approximately 12 CFS decreed to this stream, but currently only 5.37 CFS is actively being used, leaving room for Charles Jarvis Extension of 6.63 CFS when there is well above average snowpack.

****Per Order, Resume to be published by Water Division 1****

CASE NO. 2021CW3005; Water Division 2, and CASE NO. 2021CW3016, Water Division 1 – SHAWNA SCHOTANUS, 19770 Capella Dr., Monument, Colorado 80132 (Please address all pleadings and correspondence regarding this matter to Applicant’s attorneys: David M. Shohet, #36675, Emilie B. Polley, #51296, MONSON, CUMMINS & SHOHEIT, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Application for Adjudication of Denver Basin Groundwater and Plan for Augmentation
EL PASO COUNTY

II. Summary of Application. ShawNa Schotanus (“Applicant”) seeks to quantify the Denver Basin groundwater underlying her approximately 8.02-acre property in El Paso County, Colorado, and approval of a plan for augmentation for the use thereof. **III. Application for Underground Water Rights. A. Legal Description of Wells. 1. Property Description.** All wells will be located on Applicant’s approximately 8.02 acre property (“Applicant’s Property”) with current schedule number 5119000007. Applicant’s Property is depicted on **Exhibit A** attached to the application a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.), located in the NW¼ SW¼ of Section 19, Township 11 South, Range 65 West of the 6th P.M., and more particularly described as 16890 and 16910 Thompson Road, Colorado Springs, CO 80908, El Paso County, Colorado. **2. Existing Well.** There is an existing domestic well with Division of Water Resources Permit No. 296012-A (“White Cottage Farms Well”), permit attached as **Exhibit B**. It is drilled to a total depth of 320 feet to the Dawson aquifer, and located 2554 feet from the South Section Line, and 1385 feet from the West Section Line. Upon approval of this plan for augmentation, this well will be re-permitted. **B. Water Source. 1. Not-Nontributary.** he ground water to be withdrawn from the Upper Dawson aquifer underlying the Applicant’s Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation requirements for wells in the Upper Dawson aquifer will require the replacement of actual stream depletions. **2. Nontributary.** The groundwater that will be withdrawn from the Denver, Upper Arapahoe, and Laramie-Fox Hills aquifers underlying the Applicant’s Property is nontributary. **C. Estimated Rates of Withdrawal and Ground Water Available. 1. Estimated Rates of Withdrawal.** Annual pumping is estimated to be 1.4 acre-feet from the existing well or future well field. Pumping from all wells will pump at

minimum rates between 15 g.p.m. and 20 g.p.m., but will not exceed 100 g.p.m. The actual pumping rate for well(s) will vary according to aquifer conditions and well production capabilities. The Applicant requests the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts for the purposes requested herein. 2. Estimated Average Annual Amounts of Ground Water Available. Applicant requests a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicant's Property. Said amounts may be withdrawn over the 300-year life of the aquifers as required by El Paso County, Colorado Land Development Code §8.4.7(C)(1) which is more stringent than the State of Colorado's 100-year life requirement pursuant to C.R.S. §37-90-137(4). Applicant estimates that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicant's Property:

| AQUIFER | NET SAND (Feet) | Total Appropriation (Acre Feet) | Annual Avg. Withdrawal 100 Years (Acre Feet) | Annual Avg. Withdrawal 300 Years (Acre Feet) |
|------------------------|-----------------|---------------------------------|--|--|
| Upper Dawson (NNT) | 489.50 | 785.16 | 7.85 | 2.62 |
| Denver (NT) | 511.70 | 697.65 | 6.98 | 2.33 |
| Upper Arapahoe (NT) | 241.70 | 329.53 | 3.30 | 1.1 |
| Laramie Fox Hills (NT) | 199.20 | 239.64 | 2.40 | 0.80 |

Decreed amounts may vary from the above to conform with the State's Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicant further requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. **D. Requested Uses.** The Applicant requests the right to use the ground water for beneficial uses upon the Applicant's Property consisting of domestic, irrigation, stock water, fire protection, commercial, including event center and wedding venue, and also for storage and augmentation purposes associated with such uses. The Applicant also requests that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicant's Property subject, however, to the requirement of C.R.S. §37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicant shall only be entitled to construct wells or use water from the not-nontributary Upper Dawson aquifer pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with C.R.S. §37-90-137(9)(c.5). **E. Well Fields.** Applicant requests that she be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicant's Property through any combination of wells. Applicant requests that these wells be treated as a well field. **F. Averaging of Withdrawals.** Applicant requests that she be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicant's Property, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicant is

entitled to withdraw from the aquifers underlying the Applicant's Property. **G. Owner of Land Upon Which Wells are to Be Located.** The land upon which the wells are and will be located as well as the underlying groundwater is owned by the Applicant. **IV. APPLICATION FOR PLAN FOR AUGMENTATION. A. Structure to be Augmented.** The structure to be augmented is the White Cottage Farms Well, along with any replacement or additional wells associated therewith, which may include up to three wells acting as a well field, constructed to the Dawson aquifer of the Denver Basin underlying the Applicant's Property as requested and described herein. **B. Water Rights to be Used for Augmentation.** The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from the White Cottage Farms Well, together with water rights from the nontributary Arapahoe and Laramie-Fox Hills aquifers for any injurious post pumping depletions. **C. Statement of Plan for Augmentation.** Applicant wishes to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Upper Dawson aquifer by one well. Potential water use criteria and their consumptive use component for replacement of actual depletions for the lots are estimated as follows: 1. Uses. i. Household Use Only: 0.25 acre feet annually within two single family dwellings, with a maximum of ten percent consumptive use based on a nonevaporative septic leach field disposal systems. The annual consumptive use for each residence will therefore be 0.025 acre feet, with return flows of 0.225 acre feet per dwelling, or 0.45 acre-feet per year. ii. Landscape Irrigation: 0.05 acre feet annually per 1,000 square feet (2.18 acre feet per acre) per year, with an 85% assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.042 acre feet. iii. Horses (or equivalent livestock): 0.011 acre feet annually (10 gallons per day) per head with a one hundred percent consumptive use component. 2. The well will pump a maximum of 1.4 acre feet of water per year from the Dawson aquifer. Such use shall be a combination of household use, irrigation of lawn, garden and orchard, commercial, including event center and wedding venue, and the watering of horses or equivalent livestock. An example breakdown of this combination of use, utilizing the factors described above, is household use of 0.25 acre feet of water for two residences, with the additional 0.9 acre feet per year available for irrigation of lawn, garden, and orchard, wedding venue and event center facilities, and the watering of up to three horses or equivalent livestock. 3. Depletions. Applicant's consultant has determined that maximum stream depletions over the 300 year pumping period for the Upper Dawson aquifer amounts to approximately 22.28% of pumping. Maximum annual depletions for total pumping are therefore 0.31 acre feet in year 300. Should Applicant's pumping be less than the 1.4 total described herein, resulting depletions and required replacements will be correspondingly reduced. 4. Augmentation of Depletions During Pumping. Pursuant to C.R.S. §37-90-137(9)(c.5), Applicant is required to replace actual stream depletions attributable to pumping of the White Cottage Farms well. Applicant's consultant has determined that depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.25 acre feet per residence per year, total of 0.50 acre feet, 0.45 acre feet is replaced to the stream system per year, utilizing non-evaporative septic systems. Thus, during pumping, stream depletions will be more than adequately augmented. 5. Augmentation for Post Pumping Depletions. For the

replacement of any injurious post-pumping depletions which may be associated with the use of the White Cottage Farms well, Applicant will reserve a portion of the nontributary Arapahoe aquifer and up to the entirety of the nontributary Laramie Fox Hills aquifer, accounting for actual stream depletions replaced during the plan pumping period, as necessary to replace any injurious post pumping depletions. Applicant also reserves the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Arapahoe and Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicant will be entitled to apply for and receive a new well permit for the White Cottage Farms well for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137. **V. Remarks.** **A.** This Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the South Platte River system where the majority of such depletions will occur, and it is Applicant's intent to consolidate the instant matter with pending Division 2 application in Water Division 1 upon completion of publication. Applicant requests that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the South Platte River as set forth herein, and for a finding that those replacements are sufficient. **B.** Applicant requests a finding that she has complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). **C.** The term of this augmentation plan is for 300 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. **D.** The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. **E.** The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. **F.** The wells shall be installed and metered as reasonably required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicant shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicant shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. **G.** The Applicant intends to waive the 600 feet well spacing requirement for any wells to be located upon the Applicant's Property. **H.** PennyMac has a lienholder interest in the Applicant's Property. Pursuant to § 37-92-302(2)(b), C.R.S., Applicants will notify PennyMac of the filing of this application by certified or registered mail, return receipt requested, no later than 14 days after the filing of this application. Thereafter, the Applicant will complete and file with the Court a Certificate of Notice as evidence that the required notice was given.

CASE NO. 2021CW3006; STATE ENGINEER AND WATER DIV 2 ENGINEER vs. WILLIAM H. PEETZ, an individual, and RANCH LAND, LLC, a Colorado limited liability company – Verified Complaint for Injunctive Relief, Penalties, and Costs. This case is being listed in the resume to account for the case number in consecutive order.

CASE NO. 2021CW3007; Previous Case No. 05CW06, 98CW80, 88CW49, 84CW59, 84CW55, 84CW48, 80CW35, W-4406(76), W-44 – CHEROKEE METROPOLITAN DISTRICT, c/o Amy Lathen, General Manager, 6250 Palmer Park Blvd., Colorado Springs, CO 80915 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Peter C. Johnson, Esq. and Alison I. D. Gorsevski, Esq., Vranesh and Raisch, LLP, 5303 Spine Road, Suite 202, Boulder, CO 80301, Telephone: (303) 443-6151)

**Application to Make Conditional Water Right Absolute
EL PASO COUNTY**

2. Name of Structure: CMD Well No. 21, also known as Sweetwater Well No. 5. 3. Description of conditional water right: 3.1 Original decree: Case No. 53483, Pueblo County District Court, Div. B, Colorado, dated April 28, 1972. 3.2 Subsequent diligence decrees: Case Nos. W-44, W-4406(76), 80CW35, 84CW48, 84CW55, 84CW59, 88CW49, 98CW80, and 05CW06/05CW20 (consolidated), each in District Court, Water Division 2, State of Colorado. 3.2.1 Remarks: Pursuant to paragraphs 10.2.1.3, 10.2.2, and 19.1.2 of the decree in Consolidated Case Nos. 05CW06/05CW20, to avoid automatic abandonment of the subject water right, Applicant is required to file an application to make the subject water right absolute no later than February 26, 2021. This Application to Make Conditional Water Right Absolute is timely filed, and therefore, no automatic abandonment has occurred under the terms of the decree entered in Consolidated Case Nos. 05CW06/05CW20. Applicant is entitled to make the subject water right absolute up to an amount of 290 acre-feet per year. 3.3 Legal description: 3,200 feet east and 3,000 feet south of the NW corner of Section 24, Township 15 South, Range 63 West of the 6th P.M., See **Exhibit A** attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) 3.4 Source of water: Black Squirrel Creek alluvium, within the Upper Black Squirrel Designated Ground Water Basin. 3.5 Amount: 4.0 c.f.s. 3.6 Appropriation date: December 31, 1965; Priority No. 72-77. 3.7 Type of use: Irrigation, domestic, and mechanical (municipal purposes) as part of a unified water supply project. 3.8 Depth: 104 feet. 4. Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: N/A. Applicant has completed the appropriation and placed the subject water right to beneficial use, as described below. 5. Claim to make water right absolute: 5.1 Date water applied to beneficial use: February 2020 through February 2021 5.1.1 Remarks: Consistent with paragraph 19.1.3 of the decree entered in Consolidated Case Nos. 05CW06/05CW20, Applicant's claim to make the subject water right absolute is based on lawful beneficial use based on at least 12 consecutive months of pumping and beneficial use. 5.2 Amount: 236 gallons per minute, 258.5 acre-feet per year. 5.3 Type of use: Irrigation, domestic, and mechanical (municipal purposes) as part of a unified water

supply project. 5.4 Place of use: Water diverted under the subject water right was used in the service area of the Cherokee Metropolitan District, as shown in **Exhibit B**. 5.5 Evidence: Applicant's evidence that the subject water right was diverted in priority, applied to the claimed beneficial uses, and in the claimed amount is provided in **Exhibit C**, and supporting information related thereto. 6. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed, or upon which water is or will be stored, including any modification to the existing storage pool: Daniel M. Farmer, Joseph M. Farmer Jr., and Farmer Family Trust, 23545 Farmer Rd., Colorado Springs, CO 80928-9509. WHEREFORE, Cherokee Metropolitan District requests that the subject water right be confirmed as absolute for the decreed uses in the amount of 236 gallons per minute, 258.5 acre-feet per year.

CASE NO. 2021CW3008; ANGELVIEW LLC , a Texas limited liability company 5585 HWY 82, Twin Lakes, CO 81251 Applicant is an entity formed or registered under the laws of Texas and has complied with all applicable requirements of the State of Colorado and is in good standing with the office of the Colorado Secretary of State. (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Alan G. Hill | Ashley N. Pollock | Hill & Pollock, LLC, 1528 Wazee Street, Denver, CO 80202, (303) 993-4452)

Application for Water Storage Right, Appropriative Rights of Substitution and Exchange, and Approval of Plan for Augmentation

LAKE COUNTY

2. The purpose of this Application is to adjudicate three (3) water storage rights, conditional appropriative rights of substitution and exchange, and a plan for augmentation for three (3) off-channel ponds known respectively as AngelView Lake ("Lake"), AngelView Pond ("Pond"), and Angel View Feeder Pond ("Feeder Pond") (collectively "Structures"). The Structures are located on Applicant's property located in the SE ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado ("AngelView Property"). See **Exhibit A** attached to the application for a general location map depicting the AngelView Property. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.), and the legal description is attached as **Exhibit B**. No part of the AngelView Property lies within a designated groundwater basin. 3. The replacement and augmentation water for the conditional appropriative rights of substitution and exchange and plan for augmentation, respectively, will be delivered by the Board of Water Works of Pueblo, Colorado ("Pueblo Water") pursuant to contract. Applicant is in the process of obtaining a long-term contract with Pueblo Water for a 20-year period commencing April 1, 2021 and terminating March 31, 2041 ("Pueblo Water Contract"). The Pueblo Water sources include stored water at Clear Creek Reservoir, Turquoise Reservoir, and Twin Lakes Reservoir; or from direct flow transmountain water rights; with the sources of such water to be at the option of Pueblo Water, but such sources do not include Fryingpan-Arkansas Project Water. At the option of Pueblo Water, such sources may be changed from time to time to suit the operational convenience of Pueblo Water. 4. To the extent that the water storage rights and/or the appropriative right of substitution and exchange claimed herein might involve the same source of water and derived from the same point of diversion from the same stream as a prior application for a water right or conditional water right filed in the

preceding year by a different applicant, adjudication of this Application may relate back to the date of filing of that prior application. § 37-92-306.1, C.R.S. **5.** An application is pending before this Court made by David Smith and Mai-Lan Huynh in Case No. 20CW3086 filed on December 30, 2020 and amended on January 12, 2021, which may include claims that involve the same source of water and derived from the same point of diversion as this Application. **6.** The Applicant in the captioned matter timely filed a statement of opposition to the prior application on February 23, 2021. **7.** This application is made within sixty days of the prior application. **8.** The Applicant has met the conditions of § 37-92-306.1, C.R.S., and, therefore, requests that adjudication of this Application relate back to December 30, 2020. Specifically, Applicant asserts that the three water storage rights and the appropriative right of substitution and exchange claimed in this Application are senior to the rights claimed in Case No. 20CW3086. **FIRST CLAIM FOR RELIEF Adjudication of Water Storage Rights** **9.** Name of Structure: AngelView Lake Prior decree: None. Legal description: W ½ of the SE ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. Location of Structure: UTM coordinates - Easting: 381052.67, Northing: 4327532.39, Zone 13. Located using aerial photography, USGS topographic maps and surveys. Source: Bartlett Gulch, tributary to Lake Creek via Twin Lakes, tributary to the Arkansas River and/or Lake Creek via Twin Lakes, tributary to the Arkansas River. Name and capacity of ditch or ditches used to fill AngelView Lake: Name of Ditch: AngelView Ditch. Location of Structure: PLSS: NE ¼ of the SW ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. Point of Diversion: UTM coordinates - Easting: 380842.71, Northing: 4327595.05, Zone 13. Located using aerial photography and USGS topographic maps. Name of Ditch: AngelView Pipeline. Location of Structure: PLSS: NE ¼ of the SW ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. Point of Diversion: UTM coordinates - Easting: 380765.15, Northing: 4327705.45, Zone 13. Located using aerial photography and USGS topographic maps. Date of appropriation: December 31, 1978. How appropriation initiated: Construction of the lake. Date water applied to beneficial use: May 26, 1985. Amount claimed: 5.0 acre-feet, absolute. AngelView Ditch rate of diversion: 6 cfs, absolute. AngelView Pipeline rate of diversion: 6 cfs, conditional. Use: Recreational, piscatorial, and aesthetic. Surface area of high-water line: 1.1 acres. Vertical Height of Dam: 8 ft. Length of Dam: 100 ft. Total capacity of AngelView Lake in acre-feet: 5.0 acre-feet. Name and address of owner of land on which structure for water right is located: AngelView LLC, 5585 HWY 82, Twin Lakes, CO 81251. Applicant requests that the court enter a decree for the water storage rights claimed in AngelView Lake. **10.** Name of Structure: AngelView Pond Prior decree: None. Legal description: N ½ of the SE ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. Location of Structure: UTM coordinates - Easting: 381294.42, Northing: 4327659.30, Zone 13. Located using aerial photography, USGS topographic maps and surveys. Source: Bartlett Gulch, tributary to Lake Creek via Twin Lakes, tributary to the Arkansas River and/or Lake Creek via Twin Lakes, tributary to the Arkansas River. Name and capacity of ditch or ditches used to fill AngelView Pond: Name of Ditch: AngelView Ditch Location of Structure: PLSS: NE ¼ of the SW ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. Point of Diversion: UTM coordinates - Easting: 380842.71, Northing: 4327595.05, Zone 13. Located using aerial

photography and USGS topographic maps. Name of Ditch: AngelView Pipeline. Location of Structure: PLSS: NE ¼ of the SW ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. Point of Diversion: UTM coordinates - Easting: 380765.15, Northing: 4327705.45, Zone 13. Located using aerial photography and USGS topographic maps. Date of appropriation: December 31, 1978. How appropriation initiated: Construction of the pond. Date water applied to beneficial use: May 26, 1985. Amount claimed: 1.5 acre-feet, absolute. AngelView Ditch rate of diversion: 6 cfs, absolute. AngelView Pipeline rate of diversion: 6 cfs, conditional. Use: Recreational, piscatorial, and aesthetic. Surface area of high-water line: 0.4 acres. Vertical Height of Dam: 10 ft Length of Dam: 60 ft. Total capacity of AngelView Pond in acre-feet: 1.5 acre-feet. Name and address of owner of land on which structure for water right is located: AngelView LLC, 5585 HWY 82, Twin Lakes, CO 81251. Applicant requests that the court enter a decree for the water storage rights claimed AngelView Pond. **11. Name of Structure:** AngelView Feeder Pond Prior decree: None Legal description: N ½ of the SE ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. Location of Structure: UTM coordinates - Easting: 381303.39, Northing: 4327628.44, Zone 13. Located using aerial photography and USGS topographic maps and surveys. Source: Bartlett Gulch, tributary to Lake Creek via Twin Lakes, tributary to the Arkansas River and/or Lake Creek via Twin Lakes, tributary to the Arkansas River. Name and capacity of ditch or ditches used to fill AngelView Feeder Pond: Name of Ditch: AngelView Ditch Location of Structure: PLSS: NE ¼ of the SW ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. Point of Diversion: UTM coordinates - Easting: 380842.71, Northing: 4327595.05, Zone 13. Located using aerial photography and USGS topographic maps. Name of Ditch: AngelView Pipeline Location of Structure: PLSS: NE1/4 of the SW1/4 of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. Point of Diversion: UTM coordinates - Easting: 380765.15, Northing: 4327705.45, Zone 13. Located using aerial photography and USGS topographic maps. Date of appropriation: September 22, 2020. How appropriation initiated: Construction of the Pond. Date water applied to beneficial use: NA. Amount claimed: 0.05 acre-feet, conditional. AngelView Ditch rate of diversion: 6 cfs, conditional. AngelView Pipeline rate of diversion: 6 cfs, conditional. Use: Recreational, piscatorial, and aesthetic. Surface area of high-water line: 0.015 acres. Vertical Height of Dam: 3 ft. Length of Dam: 15 ft. Total capacity of AngelView Feeder Pond in acre-feet: 0.05 acre-feet. Name and address of owner of land on which structure for water right is located: AngelView LLC, 5585 HWY 82, Twin Lakes, CO 81251 Applicant requests that the court enter a decree for the water storage rights claimed AngelView Feeder Pond. **SECOND CLAIM FOR RELIEF Conditional Appropriative Rights of Substitution and Exchange 12.** Applicant seeks conditional appropriative rights of substitution and exchange to replace evaporation and out-of-priority diversions to storage in the Lake, the Pond and the Feeder Pond that are otherwise not legally exempt from priority administration. Water will be delivered by Pueblo Water pursuant to the Pueblo Water Contract at the lower terminus/exchange from locations, and Applicant will claim credit for this water at the upstream terminus/exchange to locations. The appropriative right of substitution and exchange would allow Applicant to keep the Lake, the Pond, and the Feeder Pond full of water at times when curtailment or release would otherwise be required. Name of Exchanges: AngelView Exchange No. 1, No. 2, No. 3, and No. 4.

Location: Downstream terminus/exchange from locations: Confluence of Bartlett Gulch and Twin Lakes Reservoir at the following locations. Twin Lakes Point 1. PLSS: NE1/4 of the NE1/4 of Section 19, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. UTM coordinates - Easting: 381295.69, Northing: 4326845.50, Zone 13. Located using aerial photography and USGS topographic maps. Twin Lakes Point 2. PLSS: NE1/4 of the NE1/4 of Section 19, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. UTM coordinates - Easting: 381422.96, Northing: 4327008.79, Zone 13. Located using aerial photography and USGS topographic maps. Upstream terminus/exchange to locations: Beaver Pond on Bartlett Gulch. PLSS: NE1/4 of the SW1/4 of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. UTM coordinates - Easting: 380748.99, Northing: 4327681.03, Zone 13. Located using aerial photography, USGS topographic maps and surveys. AngelView Ditch on Bartlett Gulch. PLSS: NE1/4 of the SW1/4 of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. UTM coordinates - Easting: 380842.71, Northing: 4327595.05, Zone 13. Located using aerial photography, USGS topographic maps and surveys. AngelView Exchange No. 1 Downstream Terminus: Twin Lakes Point 1 Upstream Terminus: Beaver Pond on Bartlett Gulch AngelView Exchange No. 2 Downstream Terminus: Twin Lakes Point 1 Upstream Terminus: AngelView Ditch on Bartlett Gulch AngelView Exchange No. 3 Downstream Terminus: Twin Lakes Point 2 Upstream Terminus: Beaver Pond on Bartlett Gulch AngelView Exchange No. 4 Downstream Terminus: Twin Lakes Point 2 Upstream Terminus: AngelView Ditch on Bartlett Gulch Appropriation Date: September 15, 2020 for each exchange. How appropriation initiated: Filing of Substitute Water Supply Plan request with the Office of the State Engineer and providing notification to all parties who have subscribed to the Substitute Water Supply Plan Notification List for Water Division No.2. Water to be used for replacement: The water rights or sources of water that may be used for replacement include the following, pursuant to the Pueblo Water Contract: Fully consumable water owned or controlled by Pueblo Water. All water to be used in this augmentation plan provided by Pueblo Water must be decreed or otherwise legally available for augmentation purposes. Applicant has an agreement with Pueblo Water to lease up to 12 a.f. per year of transmountain or other fully consumable water that expires on March 31, 2041. The source of such water is unspecified in the lease but may include Pueblo Water's water stored in Clear Creek Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, from direct flow transmountain water or from any other reservoir or place from which Pueblo Water may deliver water, the sources of which are at the option of Pueblo Water, as long as they are legally available for augmentation purposes, but such sources do not include Fryingpan-Arkansas Project Water. Water deliveries may include, without limitation, water stored in Twin Lakes Reservoir (located in all or portions of Sec. 14,15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in T.11S., R.81W., 6th P.M., in Lake County), Turquoise Reservoir (located on Lake Fork Creek in Sec. 7, 8, 17, 18, 19, and 20, T.9S., R.80W., 6th P.M. and Sec. 10, 11, 12, 13, 14, and 15, T.9S., R.81W., 6th P.M., in Lake County), Clear Creek Reservoir (located in Sec. 7 and 8, T.12S., R.79W, and Sec. 12, T.12S., R.80W., 6th P.M. in Chaffee County, and reusable return flows. The sources of such water may include, but are not limited to, the water rights decreed in Case Nos. 84CW177, District Court, Water Div. No. 2; 84CW177(B), District Court, Water Div. No. 2; 90CW340, District Court, Water Div. No. 5; W-1901, District Court, Water Div. No. 5;

95CW321, District Court, Water Div. No. 5; 90CW55, District Court, Water Div. No. 2; and 04CW130, District Court, Water Div. No. 2. Amount: Exchange rate: 6 cfs, conditional, for each exchange. Volume: 12 acre-feet total for all exchanges. Applicant requests that the court enter a decree for the AngelView appropriative rights of substitution and exchange described herein. **THIRD CLAIM FOR RELIEF Approval of Plan for Augmentation 13.** Applicant seeks a decree approving a plan for augmentation to augment or replace evaporation and out-of-priority diversions to storage in the Lake, the Pond and the Feeder Pond that are otherwise not legally exempt from priority administration. Water will be delivered by Pueblo Water pursuant to the Pueblo Water Contract from the sources, and at the points, described herein. Approval of the plan for augmentation would allow Applicant to keep the Lake, Pond, and Feeder Pond full of water at times when curtailment or release would otherwise be required. **14. Structures to be Augmented:** Evaporation from the Lake, Pond, and the Feeder Pond and diversions to storage in the Lake and the Pond described in the First Claim for Relief herein when evaporation and/or diversions under the new water storage rights are out of priority and required to be curtailed. **15. Sources of Water to be Used for Augmentation:** The water rights or sources of water that may be used for augmentation in this augmentation plan include the following, pursuant to the Pueblo Water Contract: Fully consumable water owned or controlled by Pueblo Water. All water to be used in this augmentation plan provided by Pueblo Water must be decreed or otherwise legally available for augmentation purposes. Applicant has an agreement with Pueblo Water to lease up to 12 a.f. per year of transmountain or other fully consumable water that expires on March 31, 2041. The source of such water is unspecified in the lease but may include Pueblo Water's water stored in Clear Creek Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, from direct flow transmountain water or from any other reservoir or place from which Pueblo Water may deliver water, the sources of which are at the option of Pueblo Water, as long as they are legally available for augmentation purposes, but such sources do not include Fryingpan-Arkansas Project Water. Water deliveries may include, without limitation, water stored in Twin Lakes Reservoir (located in all or portions of Sec. 14,15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in T.11S., R.81W., 6th P.M., in Lake County), Turquoise Reservoir (located on Lake Fork Creek in Sec. 7, 8, 17, 18, 19, and 20, T.9S., R.80W., 6th P.M. and Sec. 10, 11, 12, 13, 14, and 15, T.9S., R.81W., 6th P.M., in Lake County), Clear Creek Reservoir (located in Sec. 7 and 8, T.12S., R.79W, and Sec. 12, T.12S., R.80W., 6th P.M. in Chaffee County, and reusable return flows. The sources of such water may include, but are not limited to, the water rights decreed in Case Nos. 84CW177, District Court, Water Div. No. 2; 84CW177(B), District Court, Water Div. No. 2; 90CW340, District Court, Water Div. No. 5; W-1901, District Court, Water Div. No. 5; 95CW321, District Court, Water Div. No. 5; 90CW55, District Court, Water Div. No. 2; and 04CW130, District Court, Water Div. No. 2. **Statement of Plan for Augmentation 16.** The plan for augmentation is intended to allow for out-of-priority evaporation, and diversions to storage in the Applicant's Lake, Pond and the Feeder Pond as necessary to keep the Lake, Pond, and Feeder Pond full at all times. **17. Diversions in excess of the volume needed to keep the Lake, Pond, and Feeder Pond full are returned to Twin Lakes via overflow outlet structures on the Lake, Pond, and Feeder Pond. 18.** To the extent that diversions to storage are not legally exempt from priority administration, the proposed plan for augmentation will replace out-of-priority diversions to storage in the Applicant's Pond in the time, amount, and location

to prevent material injury to the vested water rights of others. When the water storage rights for the Lake, Pond, and Feeder Pond are in priority, then diversions to storage will not require replacement. The total combined annual diversions to storage necessary to replace evaporation from the Lake, Pond, and Feeder Pond and the AngelView Ditch is estimated at approximately 5 acre-feet annually. **19.** Applicant's plan for augmentation will replace out-of-priority diversions as necessary to meet the lawful requirements of senior diverters at the time and location and to the extent that seniors would be deprived of their lawful entitlement. The operation of Applicant's plan for augmentation will not injuriously affect the owners of or persons entitled to use water rights under vested water rights or decreed conditional water rights. WHEREFORE, Applicant prays for a decree adjudicating the three water storage rights (including absolute and conditional rights) and conditional appropriative rights of substitution and exchange described herein, that said adjudication of this Application relate back to December 30, 2020, pursuant to § 37-92-306.1, C.R.S., and approving the plan for augmentation described herein; finding that the proposed plan for augmentation is contemplated by law and approving the plan; finding that the owners and users of vested water rights and conditional water rights will not be adversely affected by depletions from the Lake, the Pond and the Feeder Pond if the proposed appropriative right of substitution and exchange and augmentation plan are operated under the terms and conditions of a decree entered herein; and for such further relief as the court deems proper.

CASE NO. 2021CW3009; Previous Case No. 04CW132 - CITY OF COLORADO SPRINGS, COLORADO SPRINGS UTILITIES, c/o Abigail Ortega, P.E., 1521 Hancock Expressway, Mail Code 1825, Colorado Springs, CO 80903 (Please address all

pleadings and inquiries regarding this matter to Applicant's attorney: Michael J. Gustafson, Senior Attorney, City Attorney's Office-Utilities Division, 30 South Nevada Ave., MC 510, Colorado Springs, CO 80903, (719) 385-5909)

Application for Finding of Reasonable Diligence for the Conditional Appropriative Rights of Substitution and Exchange for Colorado Springs' Reusable Denver Basin Ground Water Exchange Program

EL PASO AND TELLER COUNTIES

2. Conditional Water Right and Structures involved: Colorado Springs' ("Applicant") Reusable Denver Basin Ground Water Exchange Program, involving the structures described in paragraph 3.F below. 3. Describe conditional water right including the following information from the Judgment and Decree: A. General: In District Court, Water Division No. 2, Case No. 04CW132, Applicant obtained a decree for conditional appropriative rights of exchange for its Reusable Denver Basin Ground Water Exchange Program that provides for exchanges of sewerage return flows derived from its reusable Denver Basin ground water ("Reusable Denver Basin Ground Water"), as discharged from one of its treatment facilities described in paragraph 3.F.i in exchange for native water that is diverted and/or stored by the structures described in paragraph 3.F.ii below. B. Date of Original Decree: February 3, 2015, Case No. 04CW132, District Court, Water Division No. 2. C. Subsequent Decree Awarding Findings of Diligence: N/A. D. Appropriation Date: December 14, 2004. E. Decreed Use: The water diverted by exchange will be used for all municipal purposes within the Colorado Springs' service area, as it now exists or is hereafter modified. F. Decreed Legal Description and PLSS

Description (structures involved in exchange): i. Structures Used for the Delivery of Sewered Reusable Denver Basin Ground Water: a. Las Vegas Street Wastewater Treatment Facility Outfall (WDID: 1000870). Located on Fountain Creek in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, Township 14 South, Range 66 West of the 6th Principal Meridian in El Paso County. PLSS: In the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 20, T. 14 S., R. 66 W. of the 6th P. M. at a point 583 feet from the South Section line and 2176 feet from the West Section line. UTM (NAD83)(GPS): Easting: 517116.8, Northing: 4295427.4. b. Air Force Academy Wastewater Treatment Facility Outfall (WDID: 1000919). Located on Monument Creek in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, Township 12 South, Range 66 West of the 6th Principal Meridian in El Paso County. PLSS: In the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 19, T. 12S., R. 66W. of the 6th P. M. at a point 10 feet from the South Section line and 775 feet from the West Section line. UTM (NAD83)(GPS): Easting: 514717.0, Northing: 4314897.0. c. Northern Water Reclamation Facility Outfall (a/k/a the J.D. Phillips Water Reclamation Facility) (WDID: 1000920). Located on Monument Creek in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 30, Township 13 South, Range 66 West of the 6th Principal Meridian in El Paso County. PLSS: In the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 30, T. 13 S., R. 66 W. of the 6th P. M. at a point 1488 feet from the North Section line and 2026 feet from the West Section line. UTM (NAD83)(GPS): Easting: 515242.1, Northing: 4304859.9. d. The Fort Carson Military Reservation Wastewater Treatment Facility Outfall. Located in El Paso County, Colorado, in the Southeast quarter of Section 23, Township 15 South, Range 66 West of the 6th P.M. Said outfall discharges to the tail water ditch of the Clover Ditch, which discharges into Fountain Creek in the SW 1/4 NE 1/4 of Section 25, Range 66 West of the 6th P.M. e. Any other supplemental or replacement wastewater treatment facility outfall located within the drainages of Fountain Creek or the Arkansas River above its confluence with Fountain Creek and hereafter utilized by Applicant, including any terminal storage facilities hereafter constructed and located to receive Applicant's wastewater facility discharges. Any such new Exchange-from Point for the exchanges decreed herein can only be added by means of an appropriate application filed with and approved by the court in the manner required by law, and shall have such appropriation date and junior priority dates as further determined by the court in such proceeding. e. **See Exhibit 1** attached to the application for a map depicting the location of the structures identified in this subparagraph 3.F.i. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) ii. Structures Used to Divert, Store, and/or Subsequently Release Exchanged Sewered Reusable Denver Basin Ground Water: a. Ruxton Creek System. 1. Sheep Creek Intake (WDID: 1000581). A point on the South bank of Sheep Creek whence the Southwest corner of Section 11, Township 14 South, Range 68 West of the 6th Principal Meridian bears South 21° West a distance of 600 feet. PLSS: In the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 11, T. 14S., R. 68W. of the 6th P. M. at a point 205 feet from the West Section line and 573 feet from the South Section line. UTM (NAD83)(GPS): Easting: 502118, Northing: 4299236. 2. South Ruxton Creek Intake No. 1 (WDID: 1000581). A point on the West bank of South Ruxton Creek whence the Northwest corner of Section 14, Township 14 South, Range 68 West of the 6th Principal Meridian bears North 49° West a distance of 2,555 feet. PLSS: In the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 14, T 14S., R. 68W. of the 6th P. M. at a point 1938 feet from the West Section line and 1557 feet from the North Section line. UTM (NAD83)(GPS): Easting: 502643.0, Northing: 4298565.0. 3. South Ruxton Creek Intake No. 2 (WDID:

1000581). A point on the West bank of South Ruxton Creek whence the Northwest corner of Section 14, Township 14 South, Range 68 West of the 6th Principal Meridian bears North 51° 40' West a distance of 2,385 feet. PLSS: In the SE¼ of the NW¼ of Section 14, T.14S., R. 68W. of the 6th P. M. at a point 1880 feet from the West Section line and 1363 feet from the North Section line. UTM (NAD83)(GPS): Easting: 502626.0, Northing: 4298565.0. 4. Cabin Creek Intake (WDID: 1000581). A point on the North bank of Cabin Creek whence the Southwest corner of Section 11, Township 14 South, Range 68 West of the 6th Principal Meridian bears South 7° 55' West a distance of 3,020 feet. PLSS: In the SW¼ of the NW¼ of Section 11, T. 14S., R. 68W. of the 6th P. M. at a point 421 feet from the West Section line and 1919 feet from the North Section line. UTM (NAD83)(GPS): Easting: 502181.0, Northing: 4299984.0. 5. Ruxton Creek Intake at Lake Moraine (WDID: 1000581). A point on the East bank of Ruxton Creek at Lake Moraine Reservoir whence the Southwest corner of Section 22, Township 14 South, Range 68 West of the 6th Principal Meridian bears South 27° 10' West a distance of 1,070 feet. PLSS: In the SW¼ of the SW¼ of Section 22, T. 14S., R. 68W. of the 6th P. M. at a point 954 feet from the South Section line and 495 feet from the West Section line. UTM (NAD83)(GPS): Easting: 500590.0, Northing: 4296320.0. 6. Dark Canyon Intake (WDID: 1000655). A point on South Ruxton Creek whence the Northwest corner of Section 14, Township 14 South, Range 68 West of the 6th Principal Meridian bears North 23° 50' West a distance of 4,330 feet. PLSS: In the SE¼ of the SW¼ of Section 14, T. 14S., R. 68W. of the 6th P. M. at a point 1776 feet from the West Section line and 1214 feet from the South Section line. UTM (NAD83)(GPS): Easting: 502589.3, Northing: 4297870.4. 7. Lion Creek Intake (WDID: 1000627). A point at the junction of Ruxton and Lion Creeks whence the Northeast corner of Section 15, Township 14 South, Range 68 West of the 6th Principal Meridian bears North 9° 50' East a distance of 1,600 feet. PLSS: In the SE¼ of the NE¼ of Section 15, T. 14S., R. 68W. of the 6th P. M. at a point 264 feet from the East Section line and 1595 feet from the North Section line. UTM (NAD83)(GPS): Easting: 501970.0, Northing: 4298594.0. 8. Manitou Intake No. 1 (WDID: 1000627). Located on Ruxton Creek in the Northwest quarter of Section 7, Township 14 South, Range 67 West of the 6th P.M. UTM (NAD83)(GPS): Easting: 505480.0, Northing: 4300419.0. 9. Lake Moraine Reservoir (WDID: 1003654). Located in the Southeast quarter of Section 21 and the Southwest quarter of Section 22, the Northwest quarter of Section 27, and the Northeast quarter of Section 28, Township 14 South, Range 68 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 500620.0, Northing: 4296314.0. 10. Big Tooth Reservoir (WDID: 1003668). Located in the Southwest quarter of Section 14 and the Northwest quarter of Section 23, Township 14 South, Range 68 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 502500.0, Northing: 4297864.0. b. North Slope System (Fountain Creek). 1. French Creek Intake (WDID: 1000574). Located at a point on French Creek whence the Southeast corner of Section 26, Township 13 South, Range 68 West of the 6th Principal Meridian bears South 80° 43' East a distance of 1,953 feet. PLSS: In the SE¼ of the SE¼ of Section 26, T. 13S. R. 68W. of the 6th P. M. at a point 140 feet from the South Section line and 1948 feet from the East Section line. UTM (NAD83)(GPS): Easting: 503251.0, Northing: 4303840.0. 2. Cascade Creek Intake (WDID: 1000572). Located at a point on Cascade Creek whence the Northwest corner of Section 27, Township 13 South, Range 68 West of the 6th Principal Meridian bears North 70° 11' West a distance of 1,322 feet. PLSS: In the NE¼

of the NW¼ of Section 27, T. 13S., R. 68W. of the 6th P. M. at a point 412 feet from the North Section line and 1279 feet from the West Section line. UTM (NAD83)(GPS): Easting: 501178.0, Northing: 4305332.0. 3. Crystal Creek Intake (WDID: 1000573). Located at a point on Crystal Creek whence the Northwest corner of Section 17, Township 13 South, Range 68 West of the 6th Principal Meridian bears North 23° 12' West a distance of 2,735 feet. PLSS: In the SW¼ of the NW¼ of Section 17, T. 13S., R. 68W. of the 6th P. M. at a point 2549 feet from the North Section line and 1148 feet from the West Section line. UTM (NAD83)(GPS): Easting: 497959.0, Northing: 4307967.0. 4. South Catamount Creek Intake (WDID: 1000576). Located at a point on South Catamount Creek whence the Southeast corner of Section 12, Township 13 South, Range 69 West of the 6th Principal Meridian bears South 37° East a distance of 645 feet. PLSS: In the SE¼ of the SE¼ of Section 12, T. 13S., R. 68W. of the 6th P. M. at a point 387 feet from the East Section line and 480 feet from the South Section line. UTM (NAD83)(GPS): Easting: 495920.0, Northing: 4308685.0. 5. North Catamount Creek Intake (WDID: 1000575). Located at a point on North Catamount Creek whence the South quarter corner of Section 12, Township 13 South, Range 69 West of the 6th Principal Meridian bears South 47° 45' West a distance of 1,535 feet. PLSS: In the SW¼ of the SE¼ of Section 12, T. 13S., R. 68W. of the 6th P. M. at a point 1524 feet from the East Section line and 1135 feet from the South Section line. UTM (NAD83)(GPS): Easting: 495506.0, Northing: 4309054.0. 6. Crystal Creek Reservoir (WDID: 1003667). Located in the Southwest quarter of Section 17, the Southeast quarter of Section 18 and the Northwest quarter of Section 19, Township 13 South, Range 68 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 497913.0, Northing: 4307929.0. 7. South Catamount Reservoir (WDID: 1003644). Located in the Northwest quarter of Section 18, Township 13 South, Range 68 West of the 6th Principal Meridian and the Southeast quarter of Section 12 and the Northern half of Section 13, Township 13 South, Range 69 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 495917.0, Northing: 4308626.0. 8. North Catamount Reservoir (WDID: 1003673). Located in Sections 11, 12, 13, and 14, Township 13 South, Range 69 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 495419.0, Northing: 4309045.0. c. Northfield Collection System (West Monument Creek). 1. Intake No. 1 (WDID: 1000659). Located at point on West Monument Creek whence the South quarter corner of Section 28, Township 12 South, Range 67 West of the 6th Principal Meridian bears South 80° 23' East a distance of 2,060 feet. PLSS: In the SW¼ of the SW¼ of Section 28, T. 12., R. 67W. of the 6th P. M. at a point 234 feet from the West Section line and 418 feet from the South Section line. UTM (NAD83) (DIGITIZED): Easting: 509163.0, Northing:4314673.0. 2. Intake No. 2 (WDID: 1000659). A point on West Monument Creek whence the South quarter corner of Section 28, Township 12 South, Range 67 West of the 6th Principal Meridian bears South 49° 50' East a distance of 1,255 feet. PLSS: In the SE¼ of the SW¼ of Section 28, T. 12S., R. 68W. of the 6th P. M. at a point 1351 feet from the West Section line and 844 feet from the South Section line. UTM (NAD83)(GPS): Easting:508824.0, Northing:4313654.0. 3. Intake No. 3 (WDID: 1000659). Located at a point on the North Fork of West Monument Creek whence the South quarter corner of Section 28, Township 12 South, Range 67 West of the 6th Principal Meridian bears South 9° 10' West a distance of 4,288 feet. PLSS: In the NW¼ of the NE¼ of Section 28, T. 12S., R. 68W. of the 6th P. M. at a point 1036 feet from the North Section line and 1914 feet from the East Section line. UTM

(NAD83)(DIGITIZED): Easting: 508543.0, Northing: 4313698.0. 4. Northfield Reservoir (WDID: 1003671). Located in the Southeast quarter of Section 25, Township 12 South, Range 68 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 505085.0, Northing: 4313832.0. 5. Stanley Canyon Reservoir (WDID: 1003910). Located in Section 19, Township 12 South, Range 67 West of the 6th Principal Meridian. UTM (NAD83)(DIGITIZED): Easting: 506157.0, Northing: 4315682.0. 6. Nichols Reservoir (WDID: 1003674). Located in the Southwest quarter of Section 25 and the Southeast quarter of Section 26 and the Northwest quarter of Section 36, Township 12 South, Range 68 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 504484.0, Northing: 4313413.0. 7. Rampart Reservoir (WDID: 1003670). Located in Sections 22, 23, 26 and 27, Township 12 South, Range 68 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 503395.0, Northing: 4313994.0. d. Pikeview System (Monument Creek). 1. Pikeview Intake (also known as Monument Creek Pipeline) (WDID: 1000506). Located at a point on Monument Creek just upstream from the point where the Garden of the Gods Road crosses Monument Creek, in north Colorado Springs, whence the North quarter corner of Section 19, Township 13 South, Range 66 West of the 6th Principal Meridian bears North 8° 15' East a distance of 3,189.8 feet. This intake delivers water to Pikeview Reservoir. PLSS: In the NE¼ of the SW¼ of Section 19, T. 13S., R. 66W. of the 6th P. M. at a point 2208 feet from the West Section line and 2124 feet from the South Section line. UTM (NAD83)(GPS): Easting: 515313.0, Northing: 4305978.0. 2. Pikeview Reservoir (WDID: 1003615). An off-channel reservoir located adjacent to and on the west side of Monument Creek, at a point just downstream from the point where the Garden of the Gods Road crosses Monument Creek, in north Colorado Springs, in the Northeast quarter of the Northwest quarter and in the Northwest quarter of the Northeast quarter of Section 30, Township 13 South, Range 66 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 515324.0, Northing: 4305083.0. e. 33rd Street Diversion Intake (Fountain Creek). 1. The 33rd Street Intake (WDID: 1000883). Located on Fountain Creek at 33rd Street in west Colorado Springs, whence the South quarter corner of Section 3, Township 14 South, Range 67 West of the 6th Principal Meridian bears South 12° East a distance of 535 feet. PLSS: In the SW¼ of the SE¼ of Section 3, T. 14 S., R. 67 W. of the 6th P. M. at a point 523 feet from the South Section line and 2535 feet from the East Section line. UTM (NAD83)(GPS): Easting: 510617.0, Northing: 4300647.0. An alternate point of diversion for the 33rd Street Intake is located at a point on the North bank of Fountain Creek in the Southwest quarter of Section 3, Township 14 South, Range 67 West of the 6th Principal Meridian, approximately 153 feet upstream of the original point of diversion. The alternate point of diversion was adjudicated on February 21, 1991, in Case No. 90CW29, Water Division No. 2. PLSS: In the SE¼ of the SW¼ of Section 3, T. 14 S., R. 67 W. of the 6th P. M. at a point 570 feet from the South Section line and 2612 feet from the West Section line. f. Bear Creek System (Bear Creek). 1. Bear Creek Intake (WDID: 1000535). The Bear Creek Intake was originally located on Bear Creek just south of the intersection of Gold Camp Road and Bear Creek Canyon Road. In Case No. 15CW3008, District Court, Water Division 2, the point of diversion for the Bear Creek System was changed to a point just east of the intersection of South 21st Street and West Rio Grande Street, in El Paso County. PLSS: In the NE¼ of the NE¼ of Section 23, T. 14S., R. 67W. of the 6th P. M. at a point 1,019 feet from the North Section line and 694 feet from the East Section line. UTM (NAD83)(DIGITIZED): Easting: 512832.0, Northing:

4297009.0. g. South Suburban System (Cheyenne Creek). 1. South Cheyenne Creek Intake (WDID: 1000537). Located on South Cheyenne Creek at a point just west of the intersection of Mesa Avenue and South Cheyenne Canyon Road, in southwest Colorado Springs, whence the quarter corner common to Sections 34 and 35, Township 14 South, Range 67 West of the 6th Principal Meridian bears North $-35^{\circ} 16'$ East a distance of 1,329.7 feet. This intake delivers water to South Suburban Reservoir and Gold Camp Reservoir. PLSS: In the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 34, T. 14S., R. 67W. of the 6th P. M. at a point 795 feet from the East Section line and 1537 feet from the South Section line. UTM (NAD83)(GPS): Easting: 511204.0, Northing: 4292997.0. 2. North Cheyenne Creek Intake (WDID: 1000608). Located on North Cheyenne Creek at a point approximately one mile west of the intersection of North and South Cheyenne Canyon Roads, in southwest Colorado Springs, whence the Northeast corner of Section 34, Township 14 South, Range 67 West of the 6th Principal Meridian bears North $70^{\circ} 29'$ East a distance of 4,419.2 feet. This intake delivers water to South Suburban Reservoir and Gold Camp Reservoir. PLSS: In the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, T. 14S., R. 67W. of the 6th P. M. at a point 910 feet from the West Section line and 1460 feet from the North Section line. UTM (NAD83)(GPS): Easting: 510161.0, Northing: 4293693.0. 3. South Suburban Reservoir (WDID: 1003645). An off-channel reservoir located just north of the intersection of North and South Cheyenne Canyon Roads, in southwest Colorado Springs, in Sections 26 and 35, Township 14 South, Range 67 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 511776.0, Northing: 4294040.0. 4. Gold Camp Reservoir (WDID: 1003646). An off-channel reservoir located just north of the intersection of North and South Cheyenne Canyon Roads, in southwest Colorado Springs, in Sections 27 and 34, Township 14 South, Range 67 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 511273.0, Northing: 4293888.0. f. A map depicting the location of the structures identified in this subparagraph 3.F.ii is attached as **Exhibit 2**. G. Source of Water: The sources of the substitute water supply for the Sewered Denver Basin Return Flow Exchange is Reusable Denver Basin Ground Water derived from nontributary, or fully augmented not-nontributary, ground water from the Denver, Arapahoe, and Laramie-Fox Hills Aquifers controlled by Colorado Springs, from the following sources: i. All Denver Basin Ground Water that Colorado Springs is entitled to use located within its "Augmentation Plan Area" described in paragraph 14 of the Amended Findings of Fact, Conclusions of Law, Judgment and Decree entered on January 8, 1998, in the Consolidated Cases No. 84CW202(B), 84CW203(B), 86CW118(B) and 89CW36 (Non-Sewered Phase) ("Consolidated Cases Amended Decree"), and depicted in Exhibit A-1 to that Decree. ii. Denver Basin Ground Water from beneath land in Sections 4 and 5, Township 12 South, Range 66 West, and from beneath land in Section 12, Township 13 South, Range 65 West of the 6th P.M. iii. Adjudicated Denver Basin Ground Water: a. Findings of Fact, Conclusions of Law, Judgment and Decree, dated October 5, 1993, entered in Case No. 90CW39, Water Division No. 2, on the Application for Water Rights of the City of Colorado Springs, in the Laramie-Fox Hills, Arapahoe, Denver, and Dawson Aquifers. b. Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 7, 1987, entered in Case No. 85CW57, Water Division No. 2, on the Application for Water Rights of JVRC, Inc., in the Laramie-Fox Hills Formation. c. Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 7, 1987, entered in Case No. 85CW58, Water Division No. 2, on the Application for Water

Rights of JVRC, Inc., in the Denver Formation. d. Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 7, 1987, entered in Case No. 85CW59, Water Division No. 2, on the Application for Water Rights of JVRC, Inc., in the Arapahoe Formation. e. Findings of Fact, Conclusions of Law, Judgment and Decree, dated June 22, 1988, entered in Case No. W-4788, Water Division No. 2, on the Application for Water Rights of JVRC, Inc., in El Paso County. f. Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 19, 1988, entered in Case No. 83CW133, Water Division No. 2, on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Arapahoe Formation. g. Findings of Fact, Conclusions of Law, Judgment and Decree, dated May 5, 1987, entered in Case No. 83CW133(A), on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Arapahoe Formation. h. Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 19, 1988, entered in Case No. 83CW134, Water Division No. 2, on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Laramie-Fox Hills Formation. i. Findings of Fact, Conclusions of Law, Judgment and Decree, dated May 5, 1987, entered in Case No. 83CW134(A), Water Division No. 2, on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Laramie-Fox Hills Formation. j. Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 19, 1988, entered in Case No. 83CW135, Water Division No. 2, on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Denver Formation. k. Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 19, 1988, entered in Case No. 83CW135(A), Water Division No. 2, on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Denver Formation. l. Findings of Fact, Conclusions of Law, Judgment and Decree, dated May 7, 2001, entered in Case No. 99CW166, Water Division No. 2, on the Application for Water Rights of Pulpit Rock Investments, LLC, in the Dawson, Denver, Arapahoe and Laramie-Fox Hills Formations. m. Findings of Fact, Conclusions of Law, Judgment and Decree, dated August 26, 1998, entered in Case No. 96CW69, Water Division No. 2, on the Application of Water Rights of Harry and Gail Gelles and the Gelles Family Trust, in El Paso County. n. Judgment and Decree, dated August 9, 1973, entered in Case No. W-1680, Water Division No. 2, on the Application for Water Rights of Woodmen Water & Sanitation District, and ground water withdrawn pursuant to the following well permits: 4133-F, Woodmen Well No. 1, 4134-F, Woodmen Well No. 2, 10354-F, Woodmen Well No. 3, 11504-RF, Woodmen Well No. 4, 15568-F, Woodmen Well No. 5, and 16112-F, Woodmen Well No. 6. o. Judgment and Decree, dated June 15, 2009, enter in Case No. 01CW144, on the Application of the City of Colorado Springs adjudicating alternate points of diversion of Denver Basin Ground Water that is withdrawn pursuant to the following well permits: 17024-F, Woodmen Well No. 7 (alternate point of diversion for Woodmen Well Nos. 1-6), and 23905-F, Woodmen Well No. 8 (alternate point of diversion for Woodmen Well Nos. 1-6). iv. Unadjudicated Denver Basin Ground Water underlying: a. Woodmen Heights annexation area in Sections 4, 5, 8, and 9 Township 13 South, Range 65 West of the 6th P.M., in El Paso County. b. Allison Valley annexation area in Sections 17, 18, 19, and 20, Township 12 South, Range 66 West of the 6th P.M., in El Paso County. c. Woodmen

Water and Sanitation District annexation in Sections 5, 8, and 9, Township 13 South, Range 66 West of the 6th P.M., in El Paso County. H. Description of Exchanges: i. Amounts Claimed. The maximum rate of exchange for the Sewered Denver Basin Return Flow Exchange is 13.9 c.f.s. The maximum annual volume of the exchange is 10,063 acre-feet. The maximum combined rate of exchange by Colorado Springs for each Exchange-to Point under the decree in Case No. 04CW132 and the decree in Case No. 84CW202(A), will not exceed the maximum rate of direct flow exchange or maximum volume of exchange into storage reservoirs adjudicated in the June 16, 1987 decree in Case No. 84CW202. ii. Maximum Combined Exchange Rate. The maximum combined upstream rate of exchange of sewerable Reusable Denver Basin Ground Water to reservoirs under the Decree in Case No. 04CW132 will not exceed the lesser of 13.9 c.f.s. or the rate of flow that would have been released from the receiving storage reservoirs had no exchange been made and no storage right junior to December 14, 2004, been exercised to store water in the receiving reservoirs. Such rate of flow includes the rate of inflow to the reservoirs in excess of the outlet capacity, which would otherwise be stored inadvertently. iii. Maximum Rates and Volumes. The maximum rates and volumes of the exchange rights for the sewerable Reusable Denver Basin Return Flows to the specific Exchange-to Points are further limited as follows: a. Exchange and Reuse Program to the Ruxton Creek System: A combined maximum of 13.9 c.f.s. for all Exchange-from Points to each direct flow diversion facility, and 1,590 acre-feet annually to the storage reservoirs. The points of diversion in the Ruxton Creek System are described in paragraph 3.F.ii.a above. b. Exchange and Reuse Program to the North Slope System: A combined maximum of 13.9 c.f.s. for all Exchange-from Points to each direct flow diversion facility, and 10,063 acre-feet annually to the storage reservoirs. The points of diversion on the North Slope System are described in paragraph 3.F.ii.b above. c. Exchange and Reuse Program to the Northfield Collection System: A combined maximum of 8.9 c.f.s. for all Exchange-from Points to each direct flow diversion facility, and 10,063 acre-feet annually to the storage reservoirs. The points of diversion in the Northfield Collection System are described in paragraph 3.F.ii.c above. d. Exchange and Reuse Program to the Pikeview System: A combined maximum of 11 c.f.s. for all Exchange-from Points to the Pikeview Intake, and 204.5 acre-feet annually to the Pikeview Reservoir. The points of diversion in the Pikeview System are described in paragraph 3.F.ii.d above. e. Exchange and Reuse Program to the 33rd Street Diversion Intakes: A combined maximum of 13.9 c.f.s. for all Exchange-from Points to the 33rd Street Diversion Intakes. The points of diversion for the 33rd Street Diversion Intakes are described in paragraph 3.F.ii.e above. f. Exchange and Reuse Program to the Bear Creek Intake: A combined maximum of 3.1 c.f.s. for all Exchange-from Points to the Bear Creek Intake. The Bear Creek Intake is described in paragraph 3.F.ii.f above. g. Exchange and Reuse Program to the South Suburban System: A combined maximum of 13.9 c.f.s. for all Exchange-from Points to the South Cheyenne Creek Intake and the North Cheyenne Creek Intake, and 1,600 acre-feet annually to the South Suburban Reservoir and to the Gold Camp Reservoir. The points of diversion in the South Suburban System are described in paragraph 3.F.ii.g above. 4. Diligence: A. Integrated System. The Applicant owns and operates an integrated system for water diversions, transmission, storage, treatment, and distribution, as well as collection and treatment of the resultant wastewater for release, exchange, and reuse. The conditional water rights described herein are a part of this

integrated water system comprising all water rights decreed and used for development and operation of the City of Colorado Springs' municipal water supply system which also comprises and includes other absolute and conditional water rights, and collection, storage, and diversion and delivery systems including, but not limited to, the structures (and/or interests therein) described in paragraph 3.F above. Reasonable diligence in the development of one component of the system comprises reasonable diligence in the development of all components. B. Diligence Activities. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures. i. During the period from February 3, 2015 (date of original decree) through January 31, 2021 (the "Diligence Period"), Applicant maintained the structures identified in this Application in order to operate the Reusable Denver Basin Ground Water Exchange Program exchange when possible. In addition, the Applicant has also undertaken numerous projects and activities for the improvement and enlargement of its water supply and distribution systems in order to facilitate the completion of the appropriation of the conditionally decreed portion of the exchange that is the subject of this Application including, but not limited to: completion of the Southern Delivery System project; improvements to the raw water pipeline between Pikeview Reservoir and the Tollefson (Mesa) water treatment plant, improvements to the Northfield Reservoir dam and spillway; design of upgrades to 33rd Street Pump Station; improvements to Gold Camp Reservoir; investigations into seepage from Rampart Reservoir dam; replacement of the South Catamount transfer pipeline, design for refacing of the Crystal Creek Reservoir dam; improvements to the Nichols Reservoir dam and spillway; design for refacing of the South Catamount Reservoir dam; reconstruction of dam face and outlet works for rehabilitation/maintenance of Homestake Reservoir (Homestake Project); extensive participation in the Arkansas River Exchange Program; continued development of the Colorado Canal Reuse Program; development and completion of the Integrated Water Resources Plan ("IWRP"), which identified a portfolio of water supply projects, policies, and processes that will be necessary to provide a reliable and sustainable supply of water for its customers for the next 50 years; continued pursuit of development of a joint project(s) as contemplated by the 1998 MOU between the cities of Aurora and Colorado Springs, Vail Associates, Upper Eagle River Regional Water Authority, Eagle River Water and Sanitation District, Cypress Climax Mining Company, and the Colorado River Water Conservation District; and pursuit of a project to maximize the yield of the Blue River System. Applicant also purchased shares in the Fountain Mutual Irrigation Company, the Chilcott Ditch Company, and the Lower Arkansas Water Management Association. ii. During the Diligence Period, Applicant also filed applications for, prosecuted and completed a number of adjudications of water rights that comprise portions of Applicant's integrated municipal water supply system. These activities include filing of applications in Water Division 2 (Arkansas River Basin), and Water Division 5 (Colorado River Basin) including, but not limited to, pursuit of adjudication of decrees in: Case No. 16CW3054 (Water Division No. 2) involving claims for diligence for Roby Ditch and Reservoir (application withdrawn and water rights ultimately abandoned); Case No. 13CW20 (Water Division No. 2) for Applicant's Local System Exchange originally decreed in Case No. 84CW202; Case No. 13CW9 (Water Division No. 2) involving claims for diligence for Applicant's Arkansas River Exchange originally decreed in Case No. 84CW203; Case

No. 16CW3053 (Water Division No. 2) involving claims for diligence for Chancellor Well No. 1 and Chancellor Well No. 2 (application withdrawn and water rights ultimately abandoned); Case No. 18CW3041 (Water Division No. 5) regarding a Colorado River-Blue River Exchange; Case No. 18CW3053 (Water Division No. 2) regarding Applicant's conditional storage Rights for Upper Sugar Loaf Reservoir and Sugar Loaf Reservoir Enlargement and Amendment; Case No. 03CW320 (Water Division No. 5) for so-called "substitution operations" pursuant to the Blue River Decree (Consolidated Cases Nos. 2782, 5016 and 5017); Case No. 05CW96 (Water Division No. 2) regarding the exchange of Temporary Use Waters (a.k.a. ATM or leased water) in the Upper Arkansas River Basin; Case No. 06CW120 (Water Division No. 2) for exchange regarding Restoration of Yield; Case No. 15CW3019 (Water Division No. 5) involving claims for diligence for Lower Blue Reservoir; Spruce Lake Reservoir, and Mayflower Reservoir; Case No. 16CW3072 (Water Division No. 2) involving claims for diligence related to Applicant's appropriative rights of exchange originally decreed in Consolidated Case Nos. 84CW202, 84CW203, 86CW118(B) and 89CW36; Case No. 07CW120 (Water Division No. 2) for Quail Lake conditional storage right; Case No. 07CW121 (Water Division No. 2) regarding exchange of Fountain Creek Recovery Project waters; Case No. 07CW122 (Water Division No. 2) involving rights of exchange to the Local System from Pueblo Reservoir and Williams Creek Reservoir; Case No. 13CW3077 (Water Division No. 5) regarding the proposed administration of Green Mountain Reservoir pursuant to the Blue River Decree; Case No. 12CW31 (Water Division No. 2) for a conditional storage right for Upper Williams Creek Reservoir and associated appropriative rights of exchange for Upper Williams Creek Reservoir and Williams Creek Reservoir; Case No. 15CW3001 (Water Division No. 2) involving a change of water rights in the Chilcott Ditch Company ("Chilcott"); Case No. 15CW3002 (Water Division No. 2) involving a change of water rights in the Fountain Mutual Irrigation Company ("FMIC"); Case No. 16CW3050 (Water Division No. 2) involving a change of water right for Chancellor Well No. 1 (application withdrawn and water rights ultimately abandoned); Case No. 16CW3056 (Water Division No. 2) involving an augmentation plan, replacement plan, and appropriative right of exchange involving Applicant's FMIC and Chilcott water rights; Case No. 19CW3026 (Water Division No. 2) involving claims for diligence related to Applicant's appropriative rights of exchange originally decreed in Case No. 86CW118A; 19CW3052 (Water Division No. 2) involving an augmentation plan, replacement plan, and appropriative right of exchange on Fountain Creek; Case No. 19CW3053 (Water Division No. 2) involving an augmentation plan, and appropriative rights of exchange; and Case No. 20CW3024 (Water Division No. 5) involving claims for diligence related to Applicant's rights originally decreed in CA1193; Case No. 20CW3033 (Water Division No. 2) involving claims for diligence related to Applicant's rights originally decreed in 1984CW202; and Case No. 20CW3048 (Water Division 2) involving claims for diligence related to Applicants water rights decreed in Case No. 07CW121. iii. Applicant has also acted to preserve and protect all of its water rights by filing statements of opposition to, and participating in, many judicial and administrative proceedings. For example, Applicant has consistently opposed water court applications that seek approval of plans for augmentation that operate on Fountain Creek. Applicant has participated in these cases to ensure that the out-of-priority depletions are replaced in time, amount, and location, and that the Division Engineer assesses transit losses on the replacement water supply. Applicant has undertaken endeavors to improve

the accuracy of the Fountain Creek Transit Loss Model, which directly affects the exchanges at issue in this Application. C. Expenditures. Applicant's total capital expenditures in connection with the activities described above on its integrated system during the Due Diligence Period have exceeded \$590,895,500. In addition to that amount, over \$11,689,500 was expended on the operation and maintenance of Applicant's local system. Applicant reserves the right to identify additional relevant efforts that may be later discovered or to make upward adjustments to amounts expended on certain projects. Applicant made diligent efforts with regard to this Application to determine and quantify all efforts made toward completion of the appropriations and application of the water rights decreed in Case No. 04CW132 to beneficial use. However, it is reasonably possible that relevant efforts or expenditures may have been overlooked or need further upward adjustment. 5. Landowners. Names and addresses of owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored: A. City of Colorado Springs, Colorado Springs Utilities, c/o Abigail Ortega, P.E., 1521 Hancock Expressway, Mail Code 1825, Colorado Springs, CO 80903 (Las Vegas Street Wastewater Treatment Facility Outfall; Northern Water Reclamation Facility Outfall; Ruxton Creek System; North Slope System; Intake No. 1, Intake No. 2, Northfield Reservoir, Stanley Canyon Reservoir, Nichols Reservoir, and Rampart Reservoir, of the Northfield Collection System; Pikeview Reservoir of the Pikeview System; 33rd Street Diversion Intake and Alternate Point of Diversion; North Cheyenne Creek Intake, South Suburban Reservoir, and Gold Camp Reservoir of the South Suburban System; Pikes Peak Collection System; and Rosemont Collection System). B. Air Force Academy, Attn: Real Estate Office, 8120 Edgerton Drive, Suite 40, USAF Academy, CO 80840 (Air Force Academy Wastewater Treatment Facility Outfall; Intake No. 3 of the Northfield Collection System). C. Pike National Forest, 2840 Kachina Drive, Pueblo, CO 81008 (Crystal Creek Reservoir, South Catamount Reservoir, and North Catamount Reservoir of the North Slope System (with Applicant); Nichols Reservoir, Rampart Reservoir of the Northfield Collection System (with Applicant)). D. Crestline MHC CO, LLC, 31200 Northwestern Highway, Farmington Hills, MI 48334 (Pikeview Intake (also known as Monument Creek Pipeline)). E. PF LLC, c/o Broadmoor Hotel Inc., 1 Lake Circle, Colorado Springs CO 80906-4269 (South Cheyenne Creek Intake). F. El Paso County, CO, 200 S. Cascade Ave, Suite 100, Colorado Springs, CO 80903 (Bear Creek System Intake). 6. Remarks or other pertinent information: A. PLSS Descriptions. PLSS descriptions are included herein in compliance with Water Court forms. In the event of a discrepancy between the decreed location and the PLSS descriptions herein, the decreed location is controlling. Any person reading this application should rely on the terms of the decree in Case No. 84CW202 adjudicating the conditional water rights herein. B. WDIDs and UTM Coordinates. The WDIDs and UTM coordinates for the structures described in paragraph 3.F were not included in the previous decrees related to the appropriative rights of exchange that are the subject of this application. They were agreed upon and added at the request of the Division 2 Engineer to the decree entered in Case No. 19CW3026 (Water Division 2) involving a claim for a finding of reasonable diligence for appropriative rights of exchange related to a different water source utilizing the structures identified in paragraph 3.F, in addition to other structures.

CASE NO. 2021CW3010; AARON ATWOOD and SARAH ATWOOD, 701 Airman Lane, Colorado Springs, CO 80921 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Matthew S. Poznanovic, Eric K. Trout, Hayes Poznanovic Korver LLC, 1999 Broadway, Suite 3200, Denver, CO 80202, (303) 825-1980

Application for Underground Water Rights from Nontributary and Not Nontributary Sources and Approval of Plan for Augmentation, in the Nontributary Laramie-Fox Hills Aquifer and the Not Nontributary Upper Dawson, Denver, And Arapahoe Aquifers

EL PASO COUNTY

Subject Property: 5.04 acres generally located in the NW1/4 NE1/4, Section 36, Township 11 South, Range 67 West of the 6th P.M., Lot 38, Chaparral Hills, also known as 515 Struthers Loop, Colorado Springs, CO, 80921, El Paso County, State of Colorado, Please see **Exhibit A** ("Subject Property") attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Applicants are the sole owners of the Subject Property.

Well Permits: There no wells on the Subject Property. Well permits will be applied for prior to construction of wells. Source of Water Rights: The Upper Dawson, Denver, and Arapahoe aquifers are not-nontributary as defined in C.R.S. § 37-90-103(10.7), and the Laramie-Fox Hills Aquifer is nontributary as defined in C.R.S. § 37-90-103(10.5).

Estimated Amounts: Applicants estimate the following annual amounts may be available for withdrawal: Upper Dawson, 0.87 a.f.; Denver, 3.96 a.f.; Arapahoe, 2.55 a.f.; Laramie-Fox Hills, 1.41 a.f.. Proposed Uses: Domestic, commercial, irrigation, stockwatering, fire protection, and augmentation purposes, including storage, both on and off the Subject Property. Jurisdiction: The Court has jurisdiction over the subject matter of this application pursuant to C.R.S. §§ 37-90-137(6), 37-92-203(1), 37-92-302(2). Summary of Plan for Augmentation: Groundwater to be Augmented: Approximately 1.4 acre-feet per year of Denver Aquifer groundwater. Water Rights to be Used for Augmentation: Return flows from the use of not nontributary and nontributary groundwater and direct discharge of nontributary groundwater. Statement of Plan for Augmentation: The Denver Aquifer groundwater will be used for domestic purposes, including in-house use, irrigation, commercial, stockwatering, and fire protection, through one or more wells, both on and off the Subject Property. Applicant reserves the right to amend the amount and uses without amending the application or republishing the same. Sewage treatment for in-house use will be provided by non-evaporative septic systems. Return flow from in-house use will be approximately 90% of that use, and return flow from irrigation use will be approximately 15% of that use. During pumping Applicant will replace actual depletions pursuant to C.R.S. § 37-90-137(9)(c.5). Depletions occur to the Monument Creek stream system and return flows accrue to that creek system and are sufficient to replace actual depletions while the subject groundwater is being pumped. Applicants will reserve an equal amount of nontributary groundwater underlying the Subject Property to meet post-pumping augmentation requirements. Applicant requests the Court approve the above underground water rights and augmentation plan, find that Applicant has complied with C.R.S. § 37-90-137(4) and water is legally available for withdrawal, find there will be no material injury to the owners of or persons entitled to use water under any

vested water right or decreed conditional water right, and grant such other and further relief as is appropriate.

CASE NO. 2021CW3011; Previous Case No. 2001CW146 – CITY OF FOUNTAIN, COLORADO (“Fountain”), c/o Dan Blankenship, Utilities Director, 116 South Main Street, Fountain CO 80817 (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Cynthia F. Covell, Andrea L. Benson, and Gilbert Y. Marchand, Jr., Alperstein & Covell P.C., 1391 Speer Blvd., Suite 730, Denver, CO 80204, (303) 861-0420)

Application for Finding of Reasonable Diligence.

EL PASO AND PUEBLO COUNTIES.

2. Names of water rights: New Fountain Mutual Shares Exchange to Augment Well Depletions; and New Fountain Mutual Shares Exchange to Pueblo Reservoir. 3. Description of conditional water rights, with required information from the prior decree: Date of original decree: February 3, 2015; Case No.: 2001CW146 (“Original Decree”) Court: Water Court, Water Division No. 2. Subsequent decrees awarding diligence for all structures: This is the first diligence proceeding. Decreed Locations: The exchange reaches decreed in the Original Decree, shown on **Exhibit A** attached to the application a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) New Fountain Mutual Shares Exchange to Augment Well Depletions: Downstream Terminus. The downstream terminus of the exchange reach is the Lower Fountain Metropolitan Sewage Disposal District Wastewater Treatment Plant, the outfall of which is located in Section 4, Township 17 South, Range 65 West of the 6th P.M. in El Paso County. The downstream terminus is shown on Exhibit A as “LFMSDD Wastewater Treatment Plant.” Upstream Terminus. The upstream terminus of the exchange decreed in this case is a point located on Fountain Creek in the SE1/4 of Section 6, Township 16 South, Range 65 West of the 6th P.M., in El Paso County, Colorado, at which the Aragon Well depletes Fountain Creek. Wells Within Exchange Reach. The exchange reach includes Jimmy Camp Creek from a point on Jimmy Camp Creek located in the SE1/4 of Section 5, and downstream therefrom to the confluence of Jimmy Camp Creek and Fountain Creek in the NW1/4 of Section 8, all in Township 16 South, Range 65 West of the 6th P.M. The wells within the exchange reach are herein after referred to as the “New Wells” and are further defined and described in paragraph 20 of the Original Decree. New Fountain Mutual Shares Exchange to Pueblo Reservoir: Downstream Terminus. The downstream terminus of the exchange reach is the confluence of Fountain Creek and the Arkansas River, in the NE 1/4 of Section 6, Township 21 South, Range 64 West of the 6th P.M. in Pueblo County, Colorado. Upstream Terminus. The upstream terminus of the exchange reach is located on the Arkansas River at Pueblo Reservoir in the S1/2 of Section 36, Township 20 South, Range 66 West of the 6th P.M. in Pueblo County, Colorado. Sources of water and Uses: New Fountain Mutual Shares Exchange to Augment Well Depletions: Source and Uses. Fully-consumable sewer and non-sewered return flows from 190 shares of Fountain Mutual Irrigation Company owned and changed by Fountain in the Original Decree for Case No. 01CW146 (“New Fountain Mutual Shares”). The New Fountain Mutual Shares may be exchanged to the points of depletion of New Wells located within the exchange reach to augment depletions from those New Wells. New Fountain Mutual Shares

Exchange to Pueblo Reservoir: Consumptive use credits from the New Fountain Mutual Shares that are exchanged to storage in Pueblo Reservoir pursuant to the Original Decree may be released if required for augmentation directly to the Arkansas River, or delivered from storage in Pueblo Reservoir back to Fountain via the Fountain Valley Conduit and/or the Southern Delivery Pipeline system to be used for all municipal purposes, including domestic, irrigation, recreation, storage, piscatorial, commercial, industrial, replacement, substitution, augmentation, and further reuse and exchange to extinction, storage and release from storage for all of the foregoing purposes, as provided in the Original Decree. Appropriation date: New Fountain Mutual Shares Exchange to Augment Well Depletions: Source and Uses: December 28, 2001. New Fountain Mutual Shares Exchange to Pueblo Reservoir: March 27, 2001. Exchange rates: New Fountain Mutual Shares Exchange to Augment Well Depletions: Source and Uses: The maximum rate of exchange shall be 11 cfs, and shall further be limited to the sewer and non-sewered return flows attributable to the New Fountain Mutual Shares. New Fountain Mutual Shares Exchange to Pueblo Reservoir: The exchange rate for the consumptive use credits from the New Fountain Mutual Shares is 19 cfs, conditional, provided, however, that the exchange rate of New Fountain Mutual Shares will be included within the 19 cfs exchange rate to be decreed in Case No. 2001CW108, Water Division 2. 3. Detailed outline of what has been done toward completion or for completion of the appropriations and application of water to beneficial use as conditionally decreed, including expenditures: During this diligence period, Fountain has continued to improve, operate and maintain its integrated water supply system, of which the exchanges decreed in the Original Decree are a part. To enable Fountain to more effectively provide water service to its existing and future customers, it has expended approximately \$32,000,000 during this diligence period for capital infrastructure investment to construct, repair and improve its wells, water system infrastructure and related infrastructure and projects that are part of the efficiency, operation and maintenance of its integrated water supply system. Among other things, during this diligence period, Fountain has undertaken costly and extensive efforts to decontaminate wells that were found to contain perfluoralkyl and polyfluoroalkyl substances (PFAS) and has actively participated in legislative hearings regarding regulation of PFAS. These efforts have allowed Fountain to continue to provide reliable water service to its existing customers and to plan for anticipated future demand. The exchanges decreed in the Original Decree are important components of Fountain's integrated water supply system. Fountain has in place infrastructure as well as measuring, accounting, recordkeeping and reporting systems required to operate the exchanges subject to the terms and conditions of the Original Decree. Fountain has agreed to forego operation of the Chilcott Exchange to Pueblo Reservoir under certain circumstances as provided in the *Intergovernmental Agreement among the Cities of Pueblo, Fountain, Colorado Springs and Aurora, Southeastern, and the Board of Water Works of Pueblo, effective May 27, 2004*, as such agreement may be amended from time to time ("Regional IGA"). The Regional IGA allows Fountain to recover as "Foregone Diversions" water that is not exchanged when exchange is foregone pursuant to the Regional IGA. Fountain, together with other parties to the Regional IGA, filed and prosecuted Case No. 06CW120, whereby Foregone Diversions can be captured for later exchange consistent with the Regional IGA. Case No. 06CW120 was decreed during this diligence period, on August 17, 2016, and a corrected decree was entered on April 20,

2017. The decree in Case No. 06CW120 will provide Fountain with greater opportunity to realize the benefit of exchanges to Pueblo Reservoir. Fountain has defended its water rights, including the exchanges decreed in the Original Decree, against applications filed by others in cases in which Fountain determined that injury to its water rights could occur in the absence of appropriate protective terms and conditions. During this diligence period, Fountain has expended in excess of \$360,000 for representation by water counsel in opposition to water court applications filed by others, in order to protect and defend its water rights, and in other matters related to the development and utilization of Fountain's water rights and water system infrastructure. During this diligence period, Fountain has also expended approximately \$85,000 in water resource engineering fees. Names and addresses of owners of the land upon which any new diversion structure or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored. Fountain has not and does not intend to construct any new diversion structure or storage structure, or modify any existing diversion or storage structure in connection with the exchanges decreed herein. Pueblo Reservoir is located on land or easements owned by the United States Department of Interior, Bureau of Reclamation, Eastern Colorado Area Office, 11056 West County Road 18-E, Loveland CO 80537-9711. The wells to which water may be exchanged pursuant to the Original Decree are located on land, easements or rights of way owned by Fountain, or on land available to Fountain pursuant to other agreement. WHEREFORE, Applicant City of Fountain, having demonstrated that it has steadily applied effort to complete the appropriation of the conditional exchanges decreed in the Original Decree in a reasonably expedient and efficient manner under all the facts and circumstances, respectfully requests that this Court find that it has exercised reasonable diligence in completing the appropriations and putting to beneficial use the conditional exchanges decreed in the Original Decree, and that said conditional decree for the New Fountain Mutual Shares Exchange to Augment Well Depletions and the New Fountain Mutual Shares Exchange to Pueblo Reservoir should be continued for another six years, or such period as may otherwise be permitted by law.

THE WATER RIGHTS CLAIMED BY THE FOREGOING APPLICATION(S) MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT AND PROTEST WITHIN THE TIME PROVIDED BY STATUTE, OR BE FOREVER BARRED.

YOU ARE HEREBY NOTIFIED that any party who wishes to oppose an application, or application as amended, may file with the Water Clerk a verified statement of opposition setting forth facts as to why the application should not be granted, or why it should be granted only in part or on certain conditions, such statement of opposition must be filed by the last day of April 2021, (forms available at Clerk's office or at www.courts.state.co.us, after serving parties and attaching a certificate of mailing, filing fee \$192.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 5th day of March 2021.



Michele Santistevan

Michele M. Santistevan, Clerk
District Court, Water Div. 2
Pueblo Judicial Building
501 N. Elizabeth Street, Suite 116
Pueblo, CO 81003; (719) 404-8749

(Court seal)
Published: